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PART II—Section 1

Notifications and Orders on Judicial and Magisterial matters; reproduction of High Court notifications and Statutory notifications of the Election Commission, India and other Election notifications

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DELHI ADMINISTRATION, DELHI

NOTIFICATIONS

Delhi, the 30th August, 1963

No. F.2(12)/63-Home.—Whereas there is heavy rush of traffic on Jamuna Bridge and unrestricted plying of heavy motor vehicles results in frequent traffic dislocation and congestion causing great inconvenience to the public and endangers its safety;

And whereas it is necessary to take suitable measures to avoid such traffic dislocation, congestion and inconvenience, and to ensure public safety;

Now therefore, I, District Magistrate, Delhi in exercise of the powers conferred on me under Section 33 of the Bombay Police Act do hereby prohibit the plying of heavy motor transport vehicles on the Jamuna Bridge. This restriction will not apply to the vehicles of the Delhi Transport Undertaking. The Inter-states passenger buses will also be exempted from this order.

Copies of this order shall be sent to the Director, Public Relations, Delhi State for publication in the press, and to all Ilaqa Magistrates, Superintendents of Police, North, Central and South Districts and Superintendent of Police Traffic, all Station House Officers of Police Stations for affixing them on their notice and orders shall similarly be displayed on the notice board outside my court and office at my residence.

S. G. BOSE MULLICK,
District Magistrate, Delhi.

Delhi, the 2nd September, 1963

No. F 2/12/63-Judl.—The following is published for general information:—

PUNJAB HIGH COURT AT CHANDIGARH

NOTIFICATION

No. 1-CA/Art.227/Const. of India/63-Rules/XII.F.5, dated the 23rd August, 1963

In exercise of the powers conferred by Article 227 of the Constitution of India, and all other powers enabling it in this behalf, the High Court for the State of Punjab, with the previous approval of the Governor of Punjab, hereby makes the following amendments to its Rules and Order Volume III, namely:—

Amendments

In the said rules, in Chapter 13—

for rule 5 and the form annexed thereto, the following shall be substituted, namely:—

"5. The following instructions are issued for the guidance of the Magistrates for recording confessions and statements under section 164 of the Code of Criminal Procedure. It

is not intended to fetter any discretion given by the law to Magistrates as such, but it is only desired to indicate the directions under which such discretion may be exercised:—

- (a) Unless for exceptional reasons to be recorded in writing, confessions should ordinarily be recorded in open court and during court hours.
- (b) The examination of an accused person, immediately after the police brings him into court, is not desirable. Ordinarily, the Magistrates should remand the accused to a sub-jail for a period of atleast 24 hours before his statement is recorded.

NOTE.—Judicial lock-ups at out-lying Tehsil headquarters are hardly different from police lock-ups, and, consequently remand should be the nearest sub-jail. It may be more convenient if in such a case confession is recorded by a Magistrate at the place where the sub-jail is situate.

- (c) Before recording a confession the Magistrate should explain to the person making it that he is not bound to make a confession and that if he does so, it will be taken down and may thereafter be used as evidence against him. It should further be made clear to him that whether he makes or does not make a confession, he will not be sent back to the police custody, but will be sent to sub-jail, where the police or the investigating officer shall have no control over him. The fact that this has been done should be recorded.
- (d) The Magistrate should invariably satisfy himself by questioning the accused and by all means in his power, that the confession is voluntary. The Magistrate may, unless the accused objects, examine his body to ensure that no physical violence has been used. If there appear grounds for suspecting violence, he should have the accused examined by a Medical Officer if possible. In case of female accused and other suitable cases, a medical examination of the accused may be directed.
- (e) The provisions of sections 163 and 164 of the Code of Criminal Procedure, should be carefully complied with. Sub-section (1) of section 163 of the Code of Criminal Procedure, read with section 24 of the Indian Evidence Act, provides that if a confession is caused by any such inducement, threat or promise, offered or made, or caused to be offered or made by a police officer or person in authority in reference to the charge against the accused person (then if in the opinion of the court the inducement or threat or promise was) as is sufficient to give the accused person grounds, which would appear to him reasonable for supposing that by making the confession he would gain any advantage or avoid any evil of a temporary nature in reference to the proceedings against him then unless in the opinion of the Court the impression caused by such inducement, threat or promise has been fully removed such confession is irrelevant that is, it cannot be used as evidence in any criminal proceedings.

person made in the course of a police investigation to have any value, it must be one which the accused person was disposed to make of his own free will. Before recording any such confession the Magistrate is bound to question the accused person to that effect and, unless upon such questioning he has reason to believe that the confession is voluntary, he should not make the memorandum required under section 164 at the foot of the record. He cannot say "I believe that this confession was voluntarily made" unless he has questioned the accused person, and from that questioning has formed the belief not a doubtful attitude of mind, but a positive belief, that the confession is a statement which the accused person was disposed to make of his own free will.

(g) It is not desirable that any police officer should be present, when a confession is being recorded under section 164, except such as may be necessary to secure the safe custody of the accused person who, in the Magistrate's opinion, cannot safely be left to other attendants. In any case, it is undesirable that the police officer making the investigation should be present.

(h) The Magistrate should invariably question the accused person as to the length of time during which he has been in the custody of the police. It is not sufficient to note the date and hour recited in the police papers, at which the accused person is said to have been formally arrested.

The Magistrate may usefully put the following questions to the accused:-

1. When did the police first question you?
2. How often were you questioned by the police?
3. Were you detained anywhere by the police before you were taken formally into custody, and if so in what circumstances?
4. When were you taken into custody by the police and where were you detained till you were produced before me?
5. Were you urged or advised by the police to make a confessional statement?
6. Did the police or anyone else suggest to you that you will be taken as an approver?
7. Has the statement you offer to make been induced by any ill-treatment, and, if so, by whom?
8. Do you fully realise that your statement is being recorded by a Magistrate and the statement which you are about to make may be used against you at your trial?
9. Why do you want to make a confessional statement?

(i) The Magistrate should question the accused with a view to ascertain the exact circumstances in which his confession was made and the connection of the police with it. It should be the endeavour of the court to record the confession in as much detail as possible, with a view to elicit information from which it could be judged whether it is freely made or is the outcome of some suggestion. Anything like a cross-examination of the accused is to be deprecated, but it is important that without any attempt at heckling or endeavour to entrap the accused, the Magistrate should record his statement with as much detail as possible. The more detailed a confession is, the greater are the chances of correctly estimating its value, and it is also useful to know precisely how it came to be made, to what extent the police had anything to do with the accused prior to it. In the confession itself, fullest possible particulars of the incidents involved should be mentioned and as far as possible, every question and answer should be recorded in full.

(j) The Magistrate should add to the memorandum required by section 164 of the Code of Criminal Procedure, a statement, in his own hand, of the grounds on which he believes that the confession is voluntary, the precautions which he took to remove the accused from influence of the police and the time, if any, given to him for reflection."

2. For rule 6, the following shall be substituted, namely:-

"6. The confession should be recorded in the following form:-

Form of recording confession made by an accused person before Magistrate of the _____ class.

Taluka _____ Sub-Division _____ District. _____

(i) The accused _____ is brought by _____ Police (Sub) Inspector/Head Constable before me at my Court/Camp at (here enter the time) A.M./P.M. to have his confession recorded, a letter/Memo. from

Here enter the name of place, day and hour. } record. I have ascertained that the offence was committed at _____ on _____ at _____ A.M./P.M.

(ii) The accused is placed in custody of my peon/armed Police/Constable and the Police (Sub) Inspector/Head Constable is directed to leave the premises. I have satisfied myself that there is no policeman in the Court or in any place whence the proceedings could be seen or heard except such armed police constables not concerned in the investigation of the crime as are necessary to guard the accused.

(iii) The accused is asked if he is disposed to make confession of his own free will.

He replies as follows:-

(iv) The body of the accused is examined without his objection. The result of the examination is as follows, namely:-

(v) The accused is asked to give details as to the length of time during which and the places where he has been in the custody of the police. He replies as follows:-

*State, time in accused's own language } "I was arrested on.....in the village _____
town of _____
City _____" *A, M
P. M

Give place, taken to.....at.....on.....time and day

Insert time in accused's own language; also on.....place and day

(vi) Herein give the question specified in clause (h) of the preceding paragraph as well as the answers given to each question by the accused.

Q. _____

A. _____

Q. _____

A. _____

Statement of accused.

Sd./
MAGISTRATE.

I have explained to _____ that he is not bound to make a confession and that, if he does so any confession he may make may be used as evidence against him and I believe that his confession was voluntarily made. It was taken in my presence and hearing and was read over the person making it, and admitted by him to be correct, and it contains a full and true account of the statement made by him.

Sd./
MAGISTRATE.

Dated:-

The accused has been forwarded to sub-jail _____.

MAGISTRATE.

3. Clause (a) of paragraph 16(1) shall be omitted and clause (b) and (c) shall be renumbered as clauses (a) and (b).

By Order of the Hon'ble the Chief Justice and Judges.

Sd./
Registrar.

By Order,

R. K. BAWEJA,
Secretary (Law and Judicial),
Delhi Administration: Delhi.

(Office of the Chief Electoral Officer, Delhi)

Delhi, the 31st August, 1963

No. F.IV(6)/63-Elec.—The following is published for general information:—

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 6th August, 1963

No. 56/1/63.—In exercise of the powers conferred by sub-rule (1) of rule 5 of the Conduct of Elections Rules, 1961, the Election Commission hereby directs that the following

amendment shall be made in its notification No. 56/1/62 (S.O. 2939), dated the 22nd September, 1962, namely:—

In the Table appended to the said notification after item 18, the following item shall be inserted, namely:—

“19. Pondicherry 1. Congress

Two bullocks
with yoke on

2. People's
Front

Elephant”

By order,

(Sd.) PRAKASH NARAIN,
Secy. to the Election Commission.

By Order,

R. K. BAWEJA,
Chief Electoral Officer, Delhi.